# THE ECONOMICS OF GOVERNMENTAL PRICE REGULATION—DISCUSSION

F. W. Taussig: As a matter of economic theory, the doubtful point in any endeavor to fix fair prices is in business profits. It is possible to determine with sufficient accuracy what are fair wages (including salaries), and what is a fair return to capital. But any precise determination of busines profits for great enterprises is extremely difficult to reach. How much should we allow for enterprise, risk taking, unusual skill in management? Our whole theory of business profits is somewhat nebulous; no doubt of necessity so. Every one knows that fortunes are made in industries strictly competitive, and are to be ascribed to unusual business capacity. Under the régime of private property, great rewards of this sort may be assumed to be just. When a monopoly or quasi-monopoly secures high returns, how are we to separate the part attributable to monopoly from the part attributable to excellence in management?

None the less, this difficulty is not necessarily insuperable in an endeavor at price regulation. After all, only rough and approximate results are to be expected. The problems would be not unlike those of physical valuation. No two experts will agree on the physical valuation of a given property, or on the sum for which a fair return should be allowed. But experts' reports will make it clear whether capitalization is grossly in excess of physical valuation, and grossly in excess of the sum on which a return should be earned. So as to price regulation: it may often be impossible to say what is a fair price, but none the less possible to say that a given price is in excess of any rate conceivably fair.

Two things seem to me clear as regards the present state of the combination problem. In the first place, we are not certain how far combination conduces to effectiveness; hence not certain whether the drift toward it is inevitable. We shall get our best evidence on the subject if we succeed in putting an end to browbeating and bullying. All the devices which a great concern can use for getting rid of a competitor, should be prohibited; such as intentional price cutting, bogus competitors, spying, and the various mean and underhanded doings uncovered by recent prosecutions. Let us hope that legislation can secure this much, and leave the field open for real competition. Then we may have some

comparison between the industrial effectiveness of a huge concern and its smaller rival.

In the second place, we need what I may call a "round-up." We need a registration of all the large concerns, and more routine information about them than we have now. The powers of supervision of the Bureau of Corporations should be enlarged. All "industrials" should make regular reports to it, perhaps similar to those which the railways make to the Interstate Commerce Commission; and the Bureau should have authority to check those reports, and to examine all books and records. The time may come when the Bureau should be given much greater powers. All agree that a task of price regulation would be in the highest degree difficult. Before we go so far as this, let us see what can be done toward making competition effective, and toward ascertaining how competition really works.

Eliot Jones: The foregoing papers, it would seem, suggest the need of distinguishing between different kinds of monopolies. In some lines of industry monopoly control has been built up by means of some form of special privilege, such as rebates. In many cases the formation of the monopoly has been promoted through a tariff, which shuts out foreign competition, while patents (especially with the exclusive contract feature) have operated to exclude domestic competition. Local price discrimination, also, has been a factor in the development of monopolies, and the possibility of such discrimination has tended to prevent potential competition from becoming effective competition. A removal of these special favors, which made possible the development of the monopoly, may possibly lead to its disintegration and the restoration of competitive conditions. Whether or no this would be the result, as is suggested by Professor Clark, would presumably depend upon the relative efficiency of the trust form of organization as compared with other types of business organization, but the eventual breakdown of monopoly control is at least a possible outcome.

But with respect to those monopolies based upon the control of natural resources, the problem is somewhat different. The anthracite coal combination, though it presents certain peculiar features of its own, well illustrates the complexities of the situation. Neither a protective tariff nor the control of important patents have been factors in the elimination of competition; and though

railroad rebates have served to discourage independent operation, they do not alone account for the development of the monopoly. And keeping in mind the nature of the anthracite combination, one could hardly claim that the development of this combination is explained or justified by the superior economics of the trust form of organization. The strength of the anthracite coal combination lies in the ownership or practical control by a few railroads, either directly or through subsidiary coal companies, of substantially the entire supply of anthracite. One company alone (the Reading Company) owns or controls about two thirds of these anthracite deposits.

An attempt has been made to effect the dissolution of this combination through the enforcement of the commodity clause of the Hepburn Act, which made it unlawful for a railroad company to transport in interstate commerce commodities mined by it, or under its authority, or in which it may have any interest, direct or indirect. The Supreme Court, however, held that this clause did not preclude a railroad company from transporting commodities mined by a *bona fide* coal mining company, even though the stock of this coal company was owned by the railroad. Inasmuch as this was the typical method whereby the railroads controlled the anthracite business, this decision effected little disturbance of the conditions existing prior to the enactment of the law.

Yet, even should further legislation be invoked to include within the prohibitions of the commodity clause the ownership of the stock of a coal mining company, there is little ground for believing that competitive conditions would be restored. The probable result, should the coal companies be separated from their present railroad control, would be the organization of a coal trust or at least some form of agreement among the coal companies to regulate output or fix prices. This would be rendered comparatively easy of attainment because the limited supply of anthracite coal is concentrated within a few hands.

How then is this situation to be dealt with? It would be in accord with the suggestions made by Professor Wright to regulate through some public authority the price which may be charged for coal. Though this plan might well be successfully carried out, nevertheless, I would suggest the query as to whether the problem would not be simplified by means of public ownership of the anthracite coal mines. The lands could then be leased under conditions prescribed by the government. The enforcement of the commodity

clause could be secured through the refusal of the government to lease coal lands to any company, such as a railroad company, whose duty to the public might be affected thereby. Were it desired to prevent the formation of a trust, the lease could be revoked whenever the lessee entered into a combination. In case subsequent experience demonstrated that the leasing system did not provide altogether adequate safeguards for the public in respect to the price charged for coal, it would still be possible to resort to a scheme of price regulation under government ownership and with a better chance of success.

John H. Gray: A more fundamental question than any yet discussed is, whether, or not, with our large business units and concentrated organized groups, under one name or another, we have a governmental organization capable of dealing with this degree of concentration even without price fixing. No government can long endure if any of its citizens, subjects, or organized groups of citizens conscious of a common purpose, is stronger than the government itself. The relative position of the government and concentrated business in this connection must be changed. The question of the expense of regulating prices does not touch the real problem. We must develop a more powerful, more learned, more permanent, and much more expensive government, if we are to maintain our civilization at all, and enable it to perform those functions which are universally admitted to be proper governmental functions.

An important question is whether or not the large trust for any reason is more efficient than the smaller business unit. Perhaps no phase of this subject has evoked more fallacies than that of the relative efficiency of the large trust, but in the last ten years we have come to realize that these efficiencies of organization and operation, while they may exist, are of less significance than certain elements which heretofore have received an inadequate consideration. The monopolistic power of such organizations to control the market and secure higher than competitive prices, has been more important than the increased efficiency coming from combination. However, whether due to efficiency or monopoly, or both, the concentration of industry is here to stay, and our problem is not to try to compel competition or prevent monopoly but rather to control the monopoly.

If we ask on what the monopolistic tendency rests it is hard to classify all, or even the more important, elements which tend to

give one organization,—the earlier, the shrewder, the larger one,—a real advantage in the market. It may be a single best route for a railroad, or an advantageous position for a terminal. Sometimes the mere magnitude of capital makes the fight too uncertain in its outcome to justify men in undertaking it. The more one studies into the situation, the more he feels that for these and other reasons the first great combination to acquire a foothold in a given field has an enormous strategic advantage. Take the Steel Company: In the face of the opposition of that company nobody can get together a large enough capital to compete permanently with it. If a new company could get the capital, it could not get as good ore in as great quantities, as good positions for its railroads, its wharves, its docks, and so on. In other words, the fight would be an unequal one and the newcomer would fight at a positive economic disadvantage. That is, to force attempts at competition would be exactly like forcing permanently the maintenance of an industry which in fact is at a disadvantage by means of a protective tariff. The meaning of this is plain—namely, that while there are many methods of immoral and unjust competition, all of which, so far as possible, ought to be suppressed by the government, the fact still remains that, through the limitation of the best natural resources and the best locations for specific industries and other reasons, the first large aggregation in the field has a real advantage, and by just means, therefore, can, in a fair fight, drive its competitor out of business. From this it follows that we might cut some of the profits of the trust by destroying unfair methods of competition, but we could not maintain the competitor. The circumstances do not permit a fight on equal terms, which means that we are permanently in an age of trusts and monopolies, and that there is no way to get out of this difficulty, unless we are willing to destroy our fixed capital and lower our civilization to the plane of the days of hand labor. As that is unthinkable, the only other remedy is to recognize monopoly and control it in the public interest, and not to attempt to maintain a competition which cannot be maintained except at the expense of the consumer.

The only justification for attempting competition in such instances is that we have not sufficient control over the trusts, and use the competing company merely as a club to make the trust be decent and serve the public at proper prices.

I end where I began—we cannot abolish the trust and maintain our present scale of life. We cannot, in fact, maintain competi-

tion. If we could, that would lower the possible scale of life. We cannot in the face of increasing concentration of industry maintain any civilization at all unless we have a government strong enough, in fact, to control the trust. The questions of unfair competition and of the expense of government fixing of prices are entirely secondary and really irrelevant questions. The government must control the trusts, no matter how expensive, or the trusts will do the government away or use it for selfish ends.

O. M. W. Sprague: The advantages of monopoly over competition in the case of the local public services are generally recognized. That there are similar advantages in the production of commodities is, to say the least, still to be proved by experience. Upon this matter, reasoning from analogy cannot be relied upon. A public service corporation has merely a local monopoly; there are numerous companies engaged in furnishing each kind of public service. Gas companies, for example, in many places may be managed unprogressively, but in many other places the business is certain to be in efficient hands. There is no danger, therefore, that continued improvement in practice and organization will not be made. A few commodities also, such as ice and milk, must be produced locally, but in most industries concentration of production is possible and if a monopoly is established the industry as a whole comes under a single management. Then if the management becomes inefficient, improvement may be checked for an indefinite period.

Of course, potential competition is in a measure a safeguard here. But we can not be sure of its effectiveness, even with unfair methods of competition eliminated, because of an obstacle which seems to have been overlooked by previous speakers. The industries in which a monopoly has been or is likely to be established are those requiring large capital, and expensive marketing organization, or those in which the control of raw materials can be secured. To engage in effective competition in such industries requires a large capital expenditure and the provision of facilities for the production of commodities which, together with those of the monopoly, are pretty certain to be far in excess of profitable demand. Securities issued against the business of the monopoly will commonly have been marketed widely among investors through banking houses. When the would-be competitor resorts to them for financial assistance, he is hardly likely to receive a favorable

response. It is not necessarily the desire for inordinate monopoly profits that leads the banker to look askance upon the proposal. The reputation of the investment banker rests largely upon the course of the securities which he has already marketed. He can hardly be expected to foster new issues which are quite likely to prove of uncertain worth themselves and also weaken the standing of those which he has already placed among investors.

The shipping business provides a good example. The addition of a new line of steamships on any of the great ocean routes would so enormously increase cargo and passenger capacity as to create a condition of oversupply which would probably last for years. The securities of the new line would necessarily be highly speculative in character, and the establishment of the line would also make distinctly more speculative than at present the securities of existing companies. The refusal of investment bankers to finance new steamship companies is perfectly natural and yet this unwillingness has recently been made the basis for much unintelligent criticism.

Potential competition is effective when it can be made actual without adding largely to existing facilities for production. Its potency lessens as the size of the business organization increases. Until we know, therefore, that continuous improvement will be made under monopoly conditions, the path of monopoly should not be made easy. The bed of the monopolist should be made uncomfortable rather than attractive, so that only where the advantages from monopoly are overwhelming will it be established.

T. N. CARVER: Is it not possible that the reason why the Wisconsin Commission think that it would be easier to run the railroads than to regulate railroad rates is because they have tried the latter? I am that way myself. If I am making an indifferent success in my present job, I naturally think that I would be a great success at some other job.

There seem to me to be some constructive possibilities in Professor Gray's suggestion to appeal to vanity instead of greed. The German civil servant's pride in his uniform certainly does secure efficient work. I think I should not suggest the complete substitution of vanity for greed as a motive to which to appeal, for I think on the whole vanity is a lower motive even than greed; but if we can appeal to both vanity and greed we shall then have a double incentive to strenuous action instead of a single incentive.

Another suggestion along the same line is that of playing the vote getter against the money getter in the universal struggle for self-interest. Apropos of Professor Sprague's remarks about the bankers' control of new investments, such as a new steamship company, and Professor Commons's comment to the effect that it was the "money trust" rather than the people who determine such things, I would suggest that Professor Commons's comment does not quite touch the point. The real question is whether the money getter or the vote getter shall determine such questions. When it is left to the money getter, he tries to feel the public pulse, or to get a knowledge of the desires of the people, quite as truly as does the vote getter, but he applies a different test. If he thinks the people want a new enterprise—say a steamship line—enough to pay for its services in large enough quantities to more than pay the cost of the enterprise, he is naturally quite willing to see the enterprise started. If it is left to the government—which means the elected officers of government, they also try to find out what the people want, but their test is somewhat different. If they find the people want a thing enough to vote for it, or to vote for those representatives who favor it, then they will start the enterprise.

Let us be under no delusion here as to what government is. The people do not control the enterprise under government any more than they do under private ownership. Under private ownership their control is exercised by their unwillingness to pay for the service in sufficient quantities to pay the cost of service. Under government enterprise their control is exercised by the ballot. It is simply a question, therefore, as to which is the more accurate method of expressing approval or disapproval. Suppose in the case of the steamship company the people were unwilling to pay for the service in sufficient numbers to pay the cost of service,—naturally the money getters, if they foresaw that situation, would not start the enterprise. Suppose, however, the voters were willing to vote in favor of the enterprise, or of the public official who would start it, or vote against the public official who would oppose it,—in that case the enterprise would be started any way. We have, therefore, to ask the question: Is the money getter's test as to whether the people want a thing as accurate and satisfactory on the whole as the vote getter's test? The money getter's test is the willingness of the people to pay. The vote getter's test is the willingness to vote for the enterprise. If we look at the matter fairly and squarely in this light, and do not try to obscure the issue

by applying a bad name to one method and a good name to the other, we shall be in a position to decide these matters wisely.

However, it seems that we cannot trust implicitly to either the money getter or the vote getter in these matters, but must play one against the other, and in the tug of war between the two the rest of us plain people may manage to get what we want. Where the money getter is in direct competition with other money getters, they will exercise a pretty effective check or control upon his rapacity. Where a monopoly exists, so that there is no such direct competition, and therefore no such effective check or control, some other check must be found. The only avaliable check is found in the presence of the vote getter, who will undertake to fix prices by legislation where competition has failed to fix them. In other words, government control of prices is the control exercised by the vote getters, because government in a democracy is a government of vote getters. This method of playing the vote getter against the money getter is, frankly, an awkward method, but it is the best there is.

W. Z. Ripley: Much of the discussion concerning monopoly thus far seems to imply that any attempt at regulation, either by state or federal authority, will strike at all manifestations of it alike. I conceive, however, that the first experiment in the line of price regulation will be found to occur on a modest scale in connection with some peculiarly obnoxious local monopoly. Public spirit will be aroused over the control of some indispensable product essential to the public health, such as, for example, a monopoly of the supply of milk, ice, or coal. Whether all the constitutional objections to price regulation can be overcome on the ground of public health and necessity, as an exercise of the police power, remains to be seen. But that we shall engage in such an experimentation by means of general legislation, such as the railroad rate bills, seems unlikely. The utterances of the Attorney-general of New York state in connection with the discovery of a water-tight monopoly of the milk supply, broadly suggesting the likelihood of price regulation by law, is one of the most significant signs of the times.

Francis E. Stanley: My object in joining the Association was to enable me to associate with men who were considering and trying to solve social problems by scientific methods, and, judging

from the papers which have been read and the remarks which have been made during the several meetings, I am somewhat disappointed, inasmuch as there is an apparent lack of the scientific method and scientific spirit in the treatment of the various subjects, this being especially noticeable in the discussion of the subject of the minimum wage and rate regulation.

It is my understanding of a method that could be called scientific that the first step to be taken is to establish fundamental principles, and that in the discussion of the minimum wage question and the question of regulation of prices some of the principles which may be regarded as fundamental and axiomatic were ignored, for example, the principle of justice.

In the administration of government, the idea of justice should take precedence over that of beneficence, and in the establishment of any law, system, or custom which has to do with the regulation of the activities of the citizen, the first question to be asked is: Does the law, the rule, or the method harmonize with that principle of equal freedom which we call justice? We must bear constantly in mind the fact that the distribution of wealth, if just, must necessarily be unequal, and any law, custom, or system of production and distribution that makes it as profitable to be ignorant, incapable, and lazy as to be intelligent, industrious, and efficient, is directly opposed to progress and the reaching of a higher civilization.

Most of the evils of society and the sufferings of humanity are not the result of injustice, but are the unavoidable consequences of our imperfect natures, and the remedy is in better men and better women. To quote from David Starr Jordan, "We cannot expect society to be much better than it is now, so long as it is composed of such people as you and I."

The first lesson for the social reformer to learn is that to discover the cause of an evil is of first importance, and that great and permanent reforms never come quickly, do not depend upon any one man or any set of officials, and that social evils cannot be cured by legislative specifics.

It is the duty of the Economic Association to discover those fundamental principles with which all laws must conform. When people are intelligent enough to govern themselves, they must be intelligent enough to formulate those principles in accordance with which they will consent to be governed; and if they are not sufficiently intelligent for that, and are not able to construct constitutions and laws in harmony with such principles, they are not

sufficiently intelligent to govern themselves. We must first invent or discover the rules of the game before we can play the game. Since it is true that the principle of justice must take precedence over that of beneficence in the construction and enforcement of the laws of a nation, it is the duty of this Association to look first to remedying those evils and relieving that suffering which results from injustice. That idea of justice which will come nearer to being universally accepted than any other, would be defined as follows: Justice is the securing to each the results of his activities, and the requiring of those activities to be carried on within the circumscribed limit which equal freedom imposes. It is the legitimate function of government to enforce the principle of equal freedom, and to prevent each citizen from encroaching upon the rightful domain of his fellow citizens. But when, in accordance with the laws and customs of the nation, the activities are so limited, then within that circumscribed limit the superior are entitled to the rewards of superiority, and the inferior must suffer the penalties which inferiority entails.

So-called rate regulation should be confined to those industries which could not be established and would not be carried on without an infringement upon the principles of justice. The right of eminent domain rests in the hands of the state or nation. At any time and in any place, when the welfare of society demands it, private property may be taken and devoted to public use; but when the state, by the exercise of that right, takes private property and turns it over to a corporation to exploit for its own benefit, an injustice is done that cannot be rectified by any system of governmental rate regulation or federal control of so-called big business.

All industries, such as transportation companies, street railways, supplying towns with water, gas, or electricity, or any industries which cannot be carried on without public franchise involving the right of eminent domain, are justly subject to the absolute control of the power that grants the franchise. Hence, the right to control depends not upon the fact that the business is big, but upon the fact that it could not be established, or would not be carried on, without a violation of the principles of justice.

Any law which confers upon corporations or individuals special privilege conflicts with that fundamental principle of justice which is the corner stone of a democracy, no matter whether the privilege benefits the capable or the incapable, the rich or the poor. Equal rights to all and special privileges to none is the central thought of democracy.